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C.I.A. Easing Request to Exempt All Its Files From Information Act

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WASHINGTON, May 29 — Lawyers for the Central Intelligence Agency and the American Civil Liberties Union say they may be close to agreement on a formula for amending the Freedom of Information Act to exempt numerous files relating to the agency's clandestine operations.

Spokesmen for the civil liberties union said the formula would preserve public access to all documents that must be disclosed under current law.

The C.I.A.'s support for the plan reflects a major change from its previous insistence that it should be entirely exempt from the disclosure law, according to Ernest Mayerfeld, deputy general counsel of the intelligence agency.

Introduced by Goldwater

The compromise is contained in a bill introduced recently by Senator Barry Goldwater, the Arizona Republican who is chairman of the Senate Select Committee on Intelligence.

Under the bill, the agency's "operational files," which show how it gathers intelligence, would be exempt from disclosure and the agency would be relieved of its responsibility to search such files in response to information requests under the act. But unclassified political, economic and scientific information obtained through intelligence operations would still be accessible to the public, as it is now supposed to be.

The Reagan Administration has offered many proposals to limit the scope of the Freedom of Information Act and has taken several steps to prevent the unauthorized disclosure of classified information, leading critics to charge that President Reagan is trying to achieve a new era of secrecy in the Government. Administration officials insist they are committed to the spirit of the law and the original objectives of Congress in passing it.

Mark H. Lynch, a staff attorney for the civil liberties union, said the Goldwater bill could speed disclosures because the C.I.A. would no longer have to search files that, in practice, yield no releasable documents. The agency has a large backlog and is just now complying with requests submitted two or three years ago.

"If we thought we were losing infor-

mation that is now available, we would never go along with this proposal," said Mr. Lynch, who has been involved in litigation against the agency for the last eight years. "The bill relieves the agency of the administrative burden of reviewing files whose contents are already exempt. It does not exempt any additional information from release."

The key to the bill is the assumption that the C.I.A., because of its computerized file system, can separate the fruits of intelligence-gathering from sensitive data about sources of intelligence and the agency's methods in gathering the information.

Items Exempted From Search

The bill would authorize the Director of Central Intelligence to designate certain files as "exempt from search, review, publication or disclosure" under the Freedom of Information Act.

Presumably, his determinations could be challenged and reviewed in court, just as plaintiffs may now challenge the agency's contention that a document should not be disclosed because it is properly classified.

"If someone challenges a 'classified' stamp," Mr. Mayerfeld said, "we are obliged in court to justify the classification of every piece of paper and every portion of the document."

To qualify for an exemption, the file must be situated in one of the branches of the agency: the Directorate of Operations, the Directorate for Science and Technology or the Office of Security. Under the bill, a file could be exempted from the search-and-disclosure requirements if it dealt with one of four topics: "scientific and technical" means of collecting intelligence, foreign intelligence and counterintelligence operations, background investigations of potential informers and liaison arrangements with foreign governments.

But the bill says information derived from the exempt files and distributed to other parts of the agency has no special protection. In addition, the agency may be required to search its operational files for information about covert activities whose existence has already been confirmed by the Government.

Goldwater Defends Plan

"This legislation does not frustrate the essential purposes of the Freedom of Information Act," Mr. Goldwater said. "Requesters will continue to have access to C.I.A. files containing the intelligence product and to information on policy questions and debates on these policies."

John Shattuck, director of the Washington office of the civil liberties union, said that if the bill became law it might lead other Federal agencies to seek exemptions from the disclosure law. He said he would be concerned about any attempts to amend the law "in piecemeal fashion to provide relief to individual agencies."

The formula in the Goldwater bill was tailored to the needs of the Central Intelligence Agency. "There is no evidence that it would work for any other agency," Mr. Lynch said.

Mr. Mayerfeld said he was speaking for the Director of Central Intelligence, William J. Casey, in saying, "We favor this bill."

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